

Repaying the Trust:
A history of the operation and outcomes of the
NSW Aboriginal Trust Fund Repayment Scheme
2005 to 2011

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Certificate of original authorship

I certify that the work in this thesis has not been previously been submitted for a degree, nor has it been submitted as part of the requirements for a degree except as fully acknowledged within the text.

I also certify that the thesis has been written by me. Any help that I have received in my research work and the preparation of the thesis itself has been fully acknowledged. In addition, I also certify that all information and sources used are identified in the thesis.

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Date:

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Abbreviations

APB	Aborigines Protection Board
ATFRS	Aboriginal Trust Fund Repayment Scheme
ATO	Australian Tax Office
AWB	Aborigines Welfare Board
DAA	Department of Aboriginal Affairs
DoCS	Department of Community Services
HREOC	Human Rights and Equal Opportunity Commission
ILO	International Labour Organisation
OPC	Office of the Protective Commissioner
PIAC	Public Interest Advocacy Centre
the Boards	the Aborigines Protection Board and the Aborigines Welfare Board
UN Basic Principles	United Nations General Assembly Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law
UTS	University of Technology, Sydney

Abstract

This thesis poses the question: using the NSW Aboriginal Trust Fund Repayment Scheme (ATFRS), as a case study, has the NSW Government addressed the issues of human rights abuses of past government policies affecting the Indigenous people of New South Wales?

It outlines the story of the ATFRS, its objectives, challenges, achievements and failures and draws on the researcher's experiences as the Director of the Scheme from 2004 to 2011. It also uses the archival records of the Aborigines Protection and Welfare Boards, and semi structured interviews with others involved in the work of the Scheme, along with Indigenous claimants.

It shows that there is extensive academic research on many of the issues relevant to the work of the ATFRS such as the 'Stolen Generation', stolen or underpaid wages, misappropriated welfare endowment payments and monies missing from Trust Fund accounts managed by the various protection boards. It also concludes that the wide ranging modern understanding and application of human rights and reparations theories can be applied in considering the work of the ATFRS. There remains, however, a gap both in the literature and from government sources on the operations or outcomes of the Scheme after it completed its work in 2011.

The thesis concludes that within the legal and political framework set by the NSW Government, the ATFRS did successfully meet many of the elements of international human rights reparations. But in determining that the Scheme could only make repayments to individuals who could prove they were owed money from their Aboriginal Trust Fund accounts, the NSW Government failed to properly address the broader need for just reparations on a collective basis for the historical wrongdoings between the State and the Indigenous people of NSW.